IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 431 OF 2005

IN

SUM. SUIT NO. 622 OF 2002

Mr. Jaleshwar Singh .. Plaintiff.

vs.

M/s. Ekta Electronics

& Ors. .. Defendants.

Mr. A.S. Doctor i/by A.D. Pandey

for the plaintiff.

Mr. D.H. Mehta i/by J.P. Singh for defendants.

CORAM : S.U.KAMDAR, J.

DATE : 9th January,2006.

P.C.

. The present suit is filed on three dishonoured cheques amounting to Rs. 5 lacs and interest claimed thereon is Rs. 2,70,000/-. There is no dispute as to the issuance of the cheques and the dishonour of the same. However, the learned counsel appearing for the plaintiff has drawn my attention to the two receipts which are annexed at Exhibits 1 and 2 to the affidavit in reply. Both the receipts are for Rs. 5 lacs one dated 2.4.1998

and the other is dated 2.6.1998. He further contends that the cheques issud are dated 30.1.1999, and two cheques are dated 9.2.1999 and are mentioned in the receipt. It is the contention of the learned counsel for the defendant that he would not even know the number of the cheques which are to be issued on the date of the issuance of receipt. The aforesaid contention has no merit as it is possible that post-dated cheques can be issued by a party and merely because the cheques mentioned therein are of future date does not amount to mean that the said cheques could not have been issued. Apart from the same, the learned counsel appearing for the defendants states that there is inconsistency in the case which has been pleaded by the plaintiff in proceedings under section 138 of the Negotiable Instruments Act and the pleadings in the present case. I have perused the same. Prima facie I do not find any such inconsistency. In that light of the matter, I am of the opinion that the defendants can be granted leave to defend only on condition. Accordingly, I direct the defendants to deposit a sum of Rs. 5 lacs in this Court within a period of four weeks from today failing which the plaintiff will be entitled to decree. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till

further orders from this Court. Summons for judgment disposed of accordingly.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.